

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

MARCIE FISHER-BORNE, for herself and as
guardian ad litem for M.F.-B., a minor;
CHANTELLE FISHER-BORNE, for herself and as
guardian ad litem for E.F.-B., a minor; TERRI
BECK; LESLIE ZANAGLIO, for herself and as
guardian ad litem for T.B.Z. and D.B.Z., both
minors; SHANA CARIGNAN; MEGAN PARKER,
for herself and as guardian ad litem for J.C., a minor;
LEIGH SMITH; CRYSTAL HENDRIX, for herself
and as guardian ad litem for J.H.-S., a minor; DANA
DRAA; LEE KNIGHT CAFFERY, for herself and
as guardian ad litem for M.M.C.-D. and M.L.C.-D.,
both minors; SHAWN LONG; CRAIG JOHNSON,
for himself and as guardian ad litem for I.J.-L., a
minor;

Plaintiffs,

v.

Case No. 1:12-cv-00589

JOHN W. SMITH, in his official capacity as the
Director of the North Carolina Administrative Office
of the Courts; THE HONORABLE DAVID L.
CHURCHILL, in his official capacity as Clerk of the
Superior Court of Guilford County; THE
HONORABLE ARCHIE L. SMITH III, in his
official capacity as Clerk of the Superior Court for
Durham County; ROY COOPER, in his official
capacity as the Attorney General of North Carolina;
WILLIE COVINGTON, in his official capacity as
the Register of Deeds for Durham County; and JEFF
THIGPEN, in his official capacity as the Register of
Deeds for Guilford County;

Defendants.

MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT

NOW COMES the Defendant, Willie Covington, in his Official Capacity as Register of Deeds of Durham County, by and through undersigned counsel, and moves this Court to dismiss this action pursuant to Rules 12(b) (1) and (6) of the Federal Rules of Civil Procedure on the grounds that the Court lacks subject matter jurisdiction over the claim and because the Plaintiffs have failed to state a claim upon which relief can be granted due to standing.

This the 10th day of September, 2013.

/s/ Kathy R. Everett-Perry
Kathy R. Everett-Perry
N.C. State Bar No.: 20958
Counsel for Willie Covington, in his Official Capacity as Register of Deeds for Durham County
P.O. Box 3508
Durham, NC 27702
Telephone: (919) 560-0710
Fax: (919) 560-0719
E-mail: keverettperry@dconc.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing MOTION TO DISMISS was filed electronically with the Clerk of Court using the CM/ECF system, which will serve a copy by email to counsels of record, as listed below.

PLAINTIFFS:

Jonathan D. Sasser
Jeremy M. Falcone
Ellis & Winters, LLP
P.O. Box 33550
Raleigh, NC 27636

OF COUNSEL:

Rose A. Saxe
James D. Esseks
American Civil Liberties Union Foundation
125 Broad Street
New York, New York 10004-2400

Elizabeth O. Gill
American Civil Liberties Union Foundation
39 Drumm Street
San Francisco, California 94111-4805

Christopher Brook
ACLU of North Carolina
PO Box 28004
Raleigh, North Carolina 27611-8004

Garrard R. Beeney
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004-2498

DEFENDANTS:

Grady L. Balentine, Jr.
Special Deputy Attorney General
NC Department of Justice
PO Box 629
Raleigh, North Carolina 27602

Olga E. Vysotskaya de Brito
Assistant Attorney General
NC Department of Justice
PO Box 629
Raleigh, North Carolina 27602

Charles Whitehead
Special Deputy Attorney General
NC Department of Justice
PO Box 629
Raleigh, North Carolina 27602

Jeff L. Thigpen
Register of Deeds for Guilford County
2nd Floor, BB&T Building
201 West Market Street
Greensboro, North Carolina 27401

This the 10th day of September, 2013.

/s/ Kathy R. Everett-Perry
Kathy R. Everett-Perry
Assistant County Attorney